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TRAFFIC SAFETY DIVISION

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EXECUTIVE SECRETARIAT

August 16, 2004

Dr. Jeffrey Runge
Administrator
National Highway Traffic Safety Administration
400 Seventh Street, S.W.
Washington, DC 20590

NHTSA-2004-18972-1

Re: Petition for a Finding of Inconsequential Noncompliance

Dear Dr. Runge:

Pursuant to 49 U.S.C. § 30118(d) and 49 U.S.C. § 20120(h) and in compliance with the requirements of 49 C.F.R. Part 556, Michelin North America, Inc., ("MNA") a New York Corporation, hereby requests exemption from the notification and remedy requirements for the Motor Vehicle Safety Act, 49 U.S.C., Chapter 301, with respect to a noncompliance with Federal Motor Vehicle Safety Standard (FMVSS) 109 (New Pneumatic Tires) § 571.109.

This petition concerns a noncompliance in a number of Michelin Symmetry tires, in two sizes, whose sidewall markings understate the actual carrying capacity of the tires. Pursuant to 49 C.F.R., Part 573, MNA has submitted a Noncompliance Information Report, dated July 20, 2004, in order to make NHTSA aware of this noncompliance. MNA now submits this petition, because it believes that this noncompliance is inconsequential as it relates to motor vehicle safety.

Background

As reported in MNA's Part 573 Noncompliance Report, approximately 60,729 Michelin Symmetry P195/60R15 87S and approximately 12,633 Michelin Symmetry P205/60R15 90S were manufactured with sidewall markings that did not meet all of the requirements of 49 C.F.R. § 571.109 S4.2.1(c).

The regulations require that the tires' load ratings be specified in one of the publications described in S4.4.1(b). In the case of both of the sizes above, the Max Load value indicated was less than the actual load carrying capability of the tires at the marked air pressure value of 240 kPa (35 psi), as explained below.

Michelin North America, Inc.

Industry Standards & Government Regulations
515 Michelin Road
Post Office Box 1987
Greenville, SC 29602-1987

ES04-005697

The P195/60R15 tires are incorrectly marked as follows:

MAX LOAD 470 kg (1036 Lbs) MAX PRES 240 kPa (35 PSI)

The P195/60R15 tires should have been marked:

MAX LOAD 540 kg (1190 Lbs.) MAX PRES 240 kPa (35 PSI)

The P205/60R15 tires were incorrectly marked as follows:

MAX LOAD 510 kg (1124 LBS) MAX PRES 240 kPa (35 PSI)

The P205/60R15 tires should have been marked:

MAX LOAD 590 kg (1301 LBS.) MAX PRES 240 kPa (35 PSI)

Analysis

The subject tires meet or exceed all of the minimum performance requirements of FMVSS 109, and the remaining tire labeling requirements FMVSS 109 are likewise met. The noncompliance has no effect on the performance of the subject tires on a motor vehicle or on a motor vehicle safety itself.

In the case of the subject tires, the correctly marked tire pressure value of 35 psi will carry 151 pounds per tire more load per tire than the incorrectly marked Max Load for the P195/60R15 and 177 pounds per tire more than the incorrectly marked Max Load for the P205/60R15.

MNA believes that this mislabeling is clearly inconsequential with respect to motor vehicle safety for all of the following reasons:

- (1) All of the performance requirements of FMVSS 109 are met or exceeded
- (2) These tires are marked with the correct maximum pressure value of 35psi as allowed by FMVSS 109 and as shown on page 1-34 of the '04 TRA Yearbook
- (3) At the indicated maximum pressure value of 35 psi the P195/60R15 tire will carry an extra 151 pounds per tire and the P205/60R15 tire will carry an additional 177 pounds per tire.
- (4) Consumers relying upon the carrying capacity values marked on the tires will put less load on the tires than they are capable of carrying.

The Agency has previously concluded that this type of marking noncompliance does not have a negative impact on motor vehicle safety. In its granting of inconsequential status to a petition for a similar understated load capacity marking noncompliance, *See e.g.* 66

Fed. Reg. 222 (November 16, 2001), the Agency determined that, if consumers were to rely upon such a labeling, they would put less load on the tire than it is capable of carrying, thus presenting no safety concern.

Conclusion

MNA believes the noncompliance described in this petition and in its Part 573 Defect and Noncompliance Information Report will have an inconsequential impact on motor vehicle safety and respectfully requests that the Agency grant MNA's petition for exemption from the notification and remedy requirements of 40 U.S.C. § 30118, and the remedy provisions of 49 U.S.C. § 30120.

If you or your staff should have any questions regarding this petition, please contact me at 864-422-4220.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael I. Wischhusen", with a long horizontal flourish extending to the right.

Michael I. Wischhusen
Director, Industry Standards
and Government Regulations



20 July, 2004

Kenneth N. Weinstein
Associate Administrator for Safety Assurance
National Highway Traffic Safety Administration
400 Seventh Street, SW (NSA-01)
Washington, D.C. 20590

Part 573 Tire Labeling Noncompliance Report

Dear Mr. Weinstein;

Pursuant to the requirements of 49 C.F.R. Part 573, we are submitting the following "Defect and Noncompliance Information Report" to advise you of a noncompliance with Federal Motor Vehicle Safety Standard 109 (New Pneumatic Passenger Tires).

Specifically, Michelin North America, Inc., (MNA) submits this report relating to a noncompliance in the sidewall marking of certain P195/60R15 and P205/60R15 Michelin Symmetry passenger tires. This report is filed in advance of a petition for a determination of inconsequential noncompliance, pursuant to 49 C.F.R. Part 556.

Pursuant to 49 C.F.R. Part 573 MNA reports the following:

573.6(c)(1) Name of Manufacturer:

Michelin North America, Inc.

573.6(c)(2)(iii) Items Containing the Noncompliance:

Michelin Symmetry sizes:

P195/60R 15 87S, manufactured during the period 8/29/00 to 10/19/03;

P205/60R15 90S, manufactured during the period 8/6/00 to 9/22/00 and 7/27/03 to 8/23/03.

Michelin North America, Inc.

Industry Standards & Government Regulations
515 Michelin Road
Post Office Box 1987
Greenville, SC 29602 1987

573.6(c)(3) Total Number of Tires Containing the Noncompliance:

A total of approximately 60,729 of the subject P195/60R 15 87S have been sold to dealers, along with a total of approximately 12,633 of the subject P205/60R15 90S.

It is likely that some or all of these approximately 73,362 tires have been sold to consumers.

573.6(c)(4) Percentage of Tires Estimated to Actually Contain the Noncompliance:

We believe that 100% of the approximately 73,362 tires are noncompliant as described below.

573.6(c)(5) Description of the Noncompliance:

The P195/60R15 tires are incorrectly marked as follows:

MAX LOAD 470 kg (1036 Lbs) MAX PRES 240 kPa (35 PSI)

The P195/60R15 tires should have been marked:

MAX LOAD 540 kg (1190 Lbs.) MAX PRES 240 kPa (35 PSI)

The P205/60R15 tires were incorrectly marked as follows:

MAX LOAD 510 kg (1124 LBS) MAX PRES 240 kPa (35 PSI)

The P205/60R15 tires should have been marked

MAX LOAD 590 kg (1301 LBS.) MAX PRES 240 kPa (35 PSI)

573.6(c)(7) Basis for Determination of Noncompliance:

The errors were discovered during a routine check of the markings related to a change in the UTQGS treadwear rating.

573.6(c)(8) Remedy program:

A new procedure has been implemented that requires all markings to be re-verified to the referential document during the design review meeting.

573.6(c)(8)(iii) Intent to File Petition for Exemption From Recall Requirements:

MNA intends to file a petition for exemption from the notification and remedy requirements of the Motor Vehicle Safety Act on the grounds that this noncompliance is of no consequence as it relates to motor vehicle safety. The petition will show that:

1. All of the performance requirements of FMVSS 109 are met or exceeded;
2. The carrying capacity of both tires is understated at the marked inflation pressure of 35 pounds per square inch. Consumers relying upon the carrying capacity of the tires as marked would actually be less apt to ever overload the tires.

Please feel free to call me at 864-422-4220 if there are any questions.

Sincerely,



Michael I. Wischhusen
Director, Industry Standards
and Government Regulations
Michelin North America, Inc.